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of all Forms of
Racial Discrimination

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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION
Forty-ninth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES
UNDER ARTICLE 9 THE CONVENTION

Concluding observations of the Committee on the Elimination of Racial Discrimination

Republic of Korea

1. The Committee on the Elimination of Racial Discrimination considered the eighth periodic report of the Republic of Korea (CERD/C/258/Add.2) at its 1159th and 1160th meetings, held on 6 and 7 August 1996 (see CERD/C/SR.1159-1160), and adopted the following concluding observations at its 1176th meeting, held on 19 August 1996.

A. Introduction

2. The Committee welcomes the eighth periodic report of the Republic of Korea and is pleased by the regularity with which the State party submits its reports. It takes note of the detailed supplementary information provided by the delegation, which includes replies to some of the suggestions and recommendations adopted by the Committee during its consideration of the seventh periodic report of the State party. The Committee also appreciates the open dialogue initiated with the delegation and the delegation's oral replies to the questions raised during the discussion.

B. Factors and difficulties impeding the implementation of the Convention

3. The Committee notes that the Republic of Korea, of which the population has historically been ethnically homogeneous, has for several years been experiencing a rapid growth of its foreign population. In particular, the Committee notes that many of those foreigners are in an irregular situation, a fact which makes it difficult to implement the provisions of the Convention on their behalf because they have no legal status in the country.

C. Positive aspects

4. The Committee views with interest the Government's wish to establish an independent national human rights commission. It notes with appreciation that the Republic of Korea is among the States parties which have accepted the amendments to article 8, paragraph 6, of the Convention, adopted at the 14th meeting of States parties.

5. The adoption of administrative guidelines on the protection of foreign industrial trainees in order to ensure them protection on an equal basis with national and legally registered foreign workers is in the spirit of article 5 of the Convention.

6. In that regard, the Committee notes that the Government of the Republic of Korea is considering creating a work permit for illegal foreign workers that would place them under the aegis of the Labour Standards Act, which, inter alia, prohibits discrimination on the basis of nationality and ensures minimum protection against poor working conditions and low wages.

7. The Committee welcomes the setting up of complaint centres in all immigration control centres, where foreign workers can file complaints in cases where their rights have been violated.

8. The Committee notes the existence of many possibilities for seeking remedies with the governmental and legal authorities and for suing individuals, the State or its representatives for compensation in cases of violations of fundamental human rights.

9. The Committee appreciates the Government's implementation of the Committee's recommendation, made during its consideration of the State party's previous report, that human rights awareness sessions should be organized for law enforcement officials as a contribution to the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination. The Ministry of Justice's translation into Korean of the texts of the international human rights conventions is also likely to enhance the general public's familiarity with those instruments.

10. The Committee notes with satisfaction that, according to the explanations provided by the delegation of the Republic of Korea, the provisions of the Convention may be invoked by individuals before the courts, which may apply them directly on the same basis as domestic law.

11. The Committee welcomes the statement by the delegation that the State party is planning to accept soon the competence of the Committee under article 14, paragraph 1 of the Convention.

D. Principal subjects of concern

12. The Committee notes with concern that neither the Constitution nor the law of the Republic of Korea explicitly prohibits discrimination on the basis of race, colour, descent, or national or ethnic origin, despite the provisions of article 2 of the Convention and the Committee's previous recommendations on the matter.

13. The Committee also notes with concern that article 4 of the Convention has not yet been fully implemented, since the law of the Republic of Korea contains no provisions explicitly punishing acts of racial discrimination and prohibiting organizations which promote and encourage racial discrimination.

14. The Committee notes with concern that there is discrimination against people of foreign origin who were born and have settled in the Republic of Korea, particularly Chinese, in relation to people of Korean origin, with regard to certain matters - for example, the impossibility of acquiring citizenship of the Republic of Korea and the difficulty in obtaining employment in some large companies.

15. The Committee also notes that, although the Government recognizes the existence of a problem of discrimination against Amerasian children, no information has been provided on any steps taken by the Government to remedy that situation.

16. The Committee regrets the fact that insufficient information has been provided with regard to article 5 of the Convention. As a result, the Committee has been unable to form an opinion on the actual situation regarding the equal enjoyment by all, without distinction as to racial, national or ethnic origin, of the various rights set forth in article 5 of the Convention.

17. The large number of foreigners who are being employed in ever-increasing numbers by businesses in the Republic of Korea, who live and work clandestinely in the country, usually under difficult and precarious conditions, and who are the victims of discrimination under the provisions of article 5 (a), (b), (d), (e) and (f) of the Convention, is a source of concern for the Committee. The same concern has been expressed with regard to the situation of foreign trainees who are allegedly subjected to various form of discrimination and forced labour.

E. Suggestions and recommendations

18. The Committee recommends that constitutional and legislative measures should be taken to remedy the omission of race as a ground for discrimination in the law of the Republic of Korea and, in that regard, notes the compulsory nature of the provisions of article 2 of the Convention.

19. The Committee also underlines the compulsory nature of the provisions of article 4 of the Convention and recommends that the State party adopt appropriate legislation to give effect to those provisions, particularly by enacting a law explicitly prohibiting and punishing acts of racial discrimination and organizations which promote and encourage racial discrimination. In that regard, the Committee recommends that the State party should take account of the Committee's General Recommendation XV.

20. The Committee also recommends that measures be taken to ensure that persons of foreign origin who were born and have settled in the Republic of Korea are no longer subject to discrimination based on ethnic origin. The Committee would like the next report to provide further information on the situation of such foreigners, the current situation of the children of mixed marriages, particularly Amerasian children, and any measures taken to improve that situation.

21. The Committee recommends that the next report of the State party should include detailed information on legislative and practical measures taken by the authorities to ensure respect for the provisions of article 5 of the Convention.

22. The Committee also recommends that measures be taken to improve the situation of migrant workers, particularly foreigners with irregular status in the Republic of Korea; in particular, it recommends that, as envisaged by the authorities, a work permit be introduced for such persons, in order to legalize their situation.

23. The Committee requests the State party to include in its next report information on complaints received, and cases tried, concerning matters of racial discrimination.

24. The Committee recommends that the next periodic report of the State party, which was due on 4 January 1996, be a full report dealing with all the points raised during the present discussion.

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